

AMENDED IN SENATE AUGUST 3, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 145

Introduced by Assembly Member De León

January 22, 2009

An act to amend Section 34620 of, and to add Section 34510.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 145, as amended, De León. Motor carriers: construction trucking services.

(1) Existing law requires the Department of Motor Vehicles to regulate the safe operation of specified vehicles, including commercial motor vehicles and trailer and semitrailer commercial vehicle combinations owned and operated by motor carriers. Existing law also requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations and to pay the fees required by these provisions.

Existing law also prohibits a motor carrier of property from contracting or subcontracting with, or otherwise engaging the services of, another motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by the above provisions, of compliance with safety inspection, certificate, permit,

and financial responsibility requirements. A violation of those provisions is a misdemeanor.

This bill would apply this prohibition to a broker of construction trucking services, as defined, and would prohibit that broker from furnishing construction transportation services to any construction project unless it has secured a surety bond of not less than \$15,000 that meets specified requirements. The bill would make a broker of construction trucking services who violates these provisions guilty of a misdemeanor and subject to a fine of up to \$5,000.

The bill would also create a rebuttable presumption in any civil action brought against a broker of construction trucking services by a motor carrier of property in dump truck equipment with whom the broker contracted during any period of time in which the broker did not have a surety bond in violation of the above-described provisions, that the broker failed to pay to the motor carrier the amount due and owing.

By expanding the scope of an existing crime and creating new crimes, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34510.5 is added to the Vehicle Code,
2 to read:
3 34510.5. (a) A broker of construction trucking services, as
4 defined in Section 3322 of the Civil Code, shall not furnish
5 construction transportation services to any construction project
6 unless it has secured a surety bond of not less than fifteen thousand
7 dollars (\$15,000) executed by an admitted surety insurer. ~~The bond~~
8 ~~required by this section shall be in favor of, and payable to, the~~
9 ~~people of the State of California, and shall be conditioned upon~~
10 ~~the person obtaining a bond that complies with this title and the~~
11 ~~payment of all sums due and payable to any individual or group~~
12 ~~of individuals when the person or his or her representative, agent,~~
13 ~~or employee has received those sums. The surety bond shall ensure~~

1 *The surety bond shall ensure* the payment of the claims of a
2 contracted motor carrier of property in dump truck equipment if
3 the broker fails to pay the contracted motor carrier within the time
4 period specified in paragraph (1) of subdivision (a) of Section 3322
5 of the Civil Code.

6 (b) A broker of construction trucking services who furnishes
7 construction transportation services in violation of this section is
8 guilty of a misdemeanor and subject to a fine of up to five thousand
9 dollars (\$5,000).

10 (c) In any civil action brought against a broker of construction
11 trucking services by a motor carrier of property in dump truck
12 equipment with whom the broker contracted during any period of
13 time in which the broker did not have a surety bond in violation
14 of this section, the failure to have the bond shall create a rebuttable
15 presumption that the broker failed to pay to the motor carrier the
16 amount due and owing.

17 (d) For purposes of this section, “a broker of construction
18 trucking services” does not include a facility that meets all the
19 following requirements:

20 (1) Arranges for transportation services of its product.

21 (2) Primarily handles raw materials to produce a new product.

22 (3) Is a rock product operation (such as an “aggregate”
23 operation), a hot mixing asphalt plant, or a concrete, concrete
24 product, or Portland cement product manufacturing facility.

25 (4) Does not accept a fee for the arrangement.

26 SEC. 2. Section 34620 of the Vehicle Code is amended to read:

27 34620. (a) Except as provided in subdivision (b) and Section
28 34622, a motor carrier of property shall not operate a commercial
29 motor vehicle on any public highway in this state, unless it has
30 complied with Section 34507.5 and has registered with the
31 department its carrier identification number authorized or assigned
32 thereunder, and holds a valid motor carrier permit issued to that
33 motor carrier by the department. The department shall issue a
34 motor carrier permit upon the carrier’s written request, compliance
35 with Sections 34507.5, 34630, and 34640, and subdivisions (e)
36 and (h) of Section 34501.12 for motor carriers listed in that section,
37 and the payment of the fee required by this chapter.

38 (b) A person shall not contract with, or otherwise engage the
39 services of, a motor carrier of property, unless that motor carrier
40 holds a valid motor carrier of property permit issued by the

1 department. A motor carrier of property or broker of construction
2 trucking services, as defined in Section 3322 of the Civil Code,
3 shall not contract or subcontract with, or otherwise engage the
4 services of, a motor carrier of property, until the contracted motor
5 carrier of property provides certification in the manner prescribed
6 by this section, of compliance with subdivision (a). This
7 certification shall be completed by the contracted motor carrier of
8 property and shall include a provision requiring the contracted
9 motor carrier of property to immediately notify the person to whom
10 they are contracted if the contracted motor carrier of property's
11 permit is suspended or revoked. A copy of the contracted motor
12 carrier of property's permit shall accompany the required
13 certificate. The Department of the California Highway Patrol shall,
14 by regulation, prescribe the format for the certificate and may make
15 available an optional specific form for that purpose. The certificate,
16 or a copy thereof, shall be maintained by each involved party for
17 the duration of the contract or period of service plus two years,
18 and shall be presented for inspection at the location designated by
19 each carrier under Section 34501.10, immediately upon the request
20 of an authorized employee of the Department of the California
21 Highway Patrol.

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.